

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**TONY SANTIAGO,**

**Plaintiff,**

**9:20-CV-1411  
(TJM/CFH)**

**v.**

**C.O. RYAN DICKERSHAID, and  
SGT. SHERMAN,**

**Defendants**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION and ORDER**

**I. INTRODUCTION**

This pro se action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Judge Hummel addressed the summary judgment motion brought by the remaining defendants in this action. See Dkt. No. 35 (June 13, 2022 Report-Recommendation and Order); Dkt. No. 25 (Defendants' Motion for Summary Judgement). Judge Hummel concluded that defendants had satisfied their burden of establishing that plaintiff failed to exhaust his administrative remedies on the remaining claims prior to bringing suit, as required under the Prison Litigation Reform Act. See Dkt. No. 35 at 15. Judge Hummel also concluded that plaintiff's complaint should be dismissed with prejudice because plaintiff's incarceration at

the Schenectady County Jail ended on June 16, 2021, almost a year after the incidents at issue, and because the record showed that plaintiff filed multiple grievances several months prior to leaving the Jail thus indicating that plaintiff had ample opportunity to exhaust his administrative remedies. See *id.* at 16. Accordingly, Judge Hummel recommended that plaintiff's complaint be dismissed with prejudice. See *id.* at 17. No objections to the recommendation have been filed, and the time to do so has expired.

## II. DISCUSSION

After examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice.

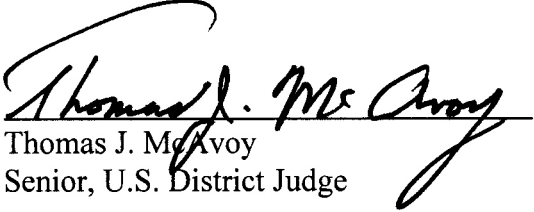
## III. CONCLUSION

Accordingly, the Court **ACCEPTS** and **ADOPTS** the Report-Recommendation and Order (Dkt. No. 35) for the reasons stated therein. Therefore, it is hereby

**ORDERED** that Defendants' Motion for Summary Judgment (Dkt. No. 25) is **GRANTED**, and plaintiff's complaint's (Dkt. No. 1) is **DISMISSED WITH PREJUDICE**.

**IT IS SO ORDERED.**

Dated: August 24, 2022

  
Thomas J. McAvoy  
Senior, U.S. District Judge